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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,883	12/09/2003	John W. Matthews	SF-2	6936
25917	7590	02/17/2006	EXAMINER	
LANGLOTZ PATENT WORKS, INC.			HAN, JASON	
PO BOX 759			ART UNIT	
GENOA, NV 89411			PAPER NUMBER	
			2875	

DATE MAILED: 02/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/732,883	Applicant(s) MATTHEWS ET AL.	
	Examiner Jason M. Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 and 5-15 is/are allowed.
- 6) ☒ Claim(s) 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Pages 7-8, filed December 12, 2005, with respect to the §103 rejection of Claims 4-9 and 11-12, have been fully considered and are persuasive. The rejection of claims has been withdrawn.
2. Applicant's arguments with respect to Claims 16-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claim 20 is objected to because of the following informalities: Grammatical error in line 7 of the claim – "illuminating light source" should read as "illuminating the light source". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 16-19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The controller critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). The omitted controller is considered critical or essential, as shown in Figures 1-2, 5-10: (12), whereby said controller determines the dimming or color control of the device.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Ko et al. (U.S. Patent 6307328).

Ko discloses a flashlight having a light source [Figure 3: (21)] with variable light output up to a maximum output level [Column 1, Lines 40-42]; a first switch [Figure 3: (13)] operable through a range of conditions between a released condition [Figure 5A: low light intensity] and a fully actuated condition [Figure 5C: high light intensity], whereby the first switch is operable for actuating to an intermediate condition between the released condition and the fully actuated condition; and a second switch [Figure 3: (12)], whereby the second switch establishes a dimmed level at an output less than the maximum level [Column 1, Lines 65-67]; whereby in response to actuating the first switch to an intermediate condition between the released condition and the fully actuated condition, illuminating the light source at the dimmed level [Figure 5(B); Column 2, Lines 42-54]; and whereby in response to actuating the first switch to the fully actuated condition, illuminating the light source at the maximum level [Figure 5(C); Column 2, Lines 42-54].

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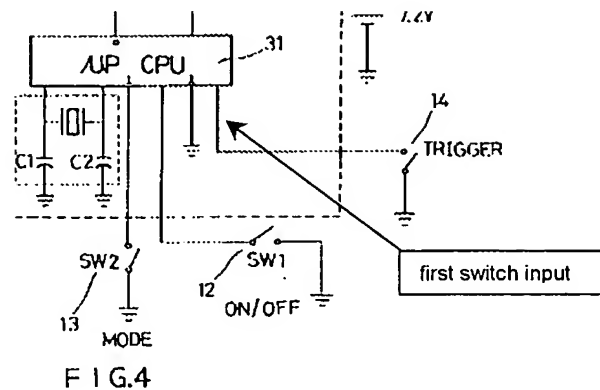
6. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Mukogawa et al. (U.S. Patent 6402339).

Mukogawa discloses a lighting device including a light source with variable color output [Figures 1, 4: (16)]; a first switch operable through a range of conditions ranging between a released condition [Figure 4: (22), "0"] and a fully actuated condition [Figure 4: (22), "3"]; a second switch to establish a selected color output [Figures 1, 4: (23)]; whereby operating the second switch establishes a selected color output [Column 5, Line 66 – Column 6, Line 8]; and in response to actuating the first switch to an intermediate condition between the released position and the fully actuated condition, illuminating the light source at the selected color [Column 5, Lines 1-39].

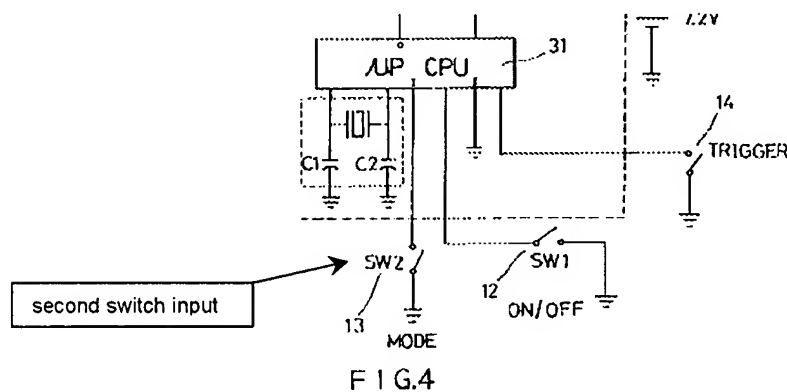
7. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Ko et al. (U.S. Patent 6307328).

Ko discloses a flashlight including:

- A lamp [Figure 3: (21)];
- A power storage element [Figure 3: (11)];
- A first switch [Figures 3-4: (14)];
- A second switch [Figures 3-4: (13)];
- An electronic controller [Figures 3-4: (3)];
- Whereby the controller has a first switch input connected to the first switch, wherein the first switch has at least an on state (flashing) and an off state (non-flashing);



- Whereby the controller has a second switch input connected to the second switch;



- Whereby the controller is operable in response to actuation of the first switch to deliver power to the lamp when the first switch is in the on state, and to prevent the delivery of power to the lamp when the first switch is in the off state [Column 2, Lines 24-34, 63-66];
- Whereby the controller is operable in response to a signal received from the second switch to establish a degree of the delivered power such that the second switch determines a brightness of the lamp [Column 2, Lines 42-54]; and

- Wherein the flashlight is an elongated body with the first switch at a first end, and the lamp at an opposed second end such that the second switch is closer to the second end than the first end.

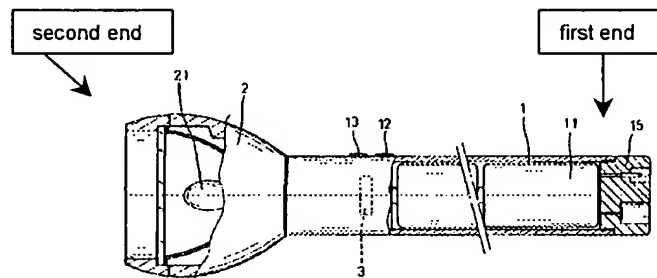


FIG. 3

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ko et al. (U.S. Patent 6307328) as applied to Claim 16 above, and further in view of McDermott (U.S. Patent 6024471).

9. With regard to Claims 17-18, Ko discloses the claimed invention as cited above, but does not specifically teach the second switch including rotating a ring encircling a housing portion of the flashlight to a selected position, wherein the dimmed level is based on the selected position (re: Claim 17); nor applying a rotational force to the

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second switch for a selected duration and changing the dimmed level based on said duration (re: Claim 18).

McDermott teaches a switch mechanism [Figures 14-18] including rotating a ring [Figures 17-18] encircling a housing portion [Figure 2: (2)] of a flashlight to a selected position, wherein the selected portion determines a dimmed level for the flashlight [Column 1, Lines 48-58]. In addition, McDermott teaches applying a rotational force to the switch for a selected duration such that changing the dimmed level is based on the duration [Column 10, Lines 54-56; Column 11, Lines 4-11].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the switch in the flashlight of Ko to incorporate the switch of McDermott in order to provide greater and improved tactile control to a user such that rotational force applied to the switch may vary the illumination intensity.

10. With regards to Claim 19, Ko in view of McDermott discloses the claimed invention as cited above. In addition, McDermott teaches the switch [Figure 2] on an outside of the flashlight and discloses, "The flashlight is watertight and remains watertight even if the lens is partially unscrewed to adjust the intensity" [Column 1, Lines 39-41].

Allowable Subject Matter

11. Claims 1-3 and 5-15 are allowed.

12. The following is an examiner's statement of reasons for allowance:

With regards to Independent Claim 1, the Applicant has sufficiently amended and narrowly defined a flashlight including a lamp, a power storage element, a first and

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second switch, an electronic controller, whereby the controller in response to actuation of the first switch delivers power to the lamp, and in response to a signal received from the second switch establishes a degree of delivered power to determine brightness for the lamp. The prior art of record fails to teach or suggest the combination of structural elements claimed herein, specifically the flashlight having an elongated body defining an axis and the second switch being a ring rotatable about the axis, and all subsequent dependent claims are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason M Han
Examiner
Art Unit 2875

JMH (2/10/2006)


ALAN CARIASO
PRIMARY EXAMINER